IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WA.No. 1849 of 2007

(AGAINST THE JUDGMENT IN W.P.(C) No. 11953 of 2006 DATED 27.02.2007)

APPELLANT/ PETITIONER

JOHN P.STEPHEN, S/O. P.V.STEPHEN,
RESIDING AT PULIMOOTTIL HOUSE, THODUPUZHA AND
HAVING ELECTRICITY CONSUMER NO.7564, THODUPUZHA.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS/RESPONDENTS
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1. ASSISTANT ENGINEER,
ELECTRICAL SECTION NO.1, THODUPUZHA.

2. THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
THIRUVANANTHAPURAM.

BY ADV. SHRI K.S. ANIL, SC, K.S.E.B.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1849 OF 2007

Dated this the 27th July, 2007

JUDGMENT

SANKARAN, J.

Petitioner in W.P.(C) No.11953 of 2006 is the appellant herein. The petitioner was served with Ext.P1 bill dated 25.3.1999 by the respondents claiming an amount of Rs.1,73,048/-. The petitioner challenged the bill by filing O.P.No.2449 of 2000, which was disposed of as per Ext.P2 judgment dated 3.7.2000, in favour of the petitioner. The judgment in O.P.No.2449 of 2000 was challenged in W.A.No.3403 of 2000 by the respondents. W.A.No.3403 of 2000 was disposed of by Ext.P3 judgment dated 5.9.2005, wherein it was held that the petitioner herein was not entitled to any relief in the Writ Petition. It was noticed by the Division Bench that fixed charges were being paid by the petitioner and the bill represents the bill for the actual consumption after taking the readings. It was also noticed that during the period from September 1993 to December 1998, the petitioner had consumed 59303 units of energy and during that period only a sum of Rs.72,607/- was paid as per the provisional invoice card. According to the petitioner, the meter was faulty and the test report was called for. The Division Bench also noticed that the test report dated 26.10.1999 proved that the consumption showed in

the meter was less than the actual consumption by 8%. The Writ Appeal was disposed of granting instalment facility to the petitioner to pay off the bill amount in instalments. The petitioner has paid the instalments. Later, a bill was issued to the petitioner claiming interest and surcharge, which is challenged in the present Writ Petition. It was contended by the petitioner that in view of Ext.P3 judgment in W.A.No.3403 of 2000, the respondents are not entitled to claim interest. This contention was rejected by the learned single Judge holding that the question of claiming interest is not concluded by Ext.P3 judgment in W.A.No.3403 of 2000. A reading of paragraph 6 of Ext.P3 judgment would indicate that the respondents were directed to reschedule the amount and such a re-scheduling was done. In that process the petitioner was held liable to pay interest as well.

2. Learned single Judge directed that the interest is to be recalculated at the rate as provided in the Supply Code, 2005. This was also done by the respondents and interest was reduced to 12% as is clear from Annexure A3 produced along with the Writ Appeal.

3. In view of the facts mentioned above and as disclosed from the pleadings and documents produced in the Writ Petition as well as in the Writ Appeal, we are of the view that the learned single Judge was right in disposing of the Writ Petition in the manner indicated therein.

No grounds are made out for interference in the Writ Appeal. Accordingly, the Writ Appeal is dismissed.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

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